IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

OP.No. 14593 of 2000(K)

PETITIONER:

GEBI JOHN, OLIMATTATHIL PUTHENPURAYIL HOUSE,
MULANTHURUTHY P.O., ERNAKULAM

BY ADV. SRI.N.SUKUMARAN
SRI.S.SHYAM

RESPONDENTS:

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1. UNION OF INDIA, REPRESENTED BY THE SECRETARY
TO THE MINISTRY OF DEFENCE,
NEW DELHI.

2. THE CHIEF OF AIR STAFF,
AIR HEAD QUARTERS,
NEW DELHI – 110 011.

BY ADV. SRI.K.RAMAKUMAR
SRI.P.S.SREEDHARAN PILLAI, SCGSC
SRI.JOHN VARGHESE, ASSISTANT SG
SRI.P.PARAMESWARAN NAIR, ASG
FOR R1 AND R2, SRI.C.S.ABDUL SAMAD, CGSC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP.No. 14593 of 2000(K)

A P P E N D I X

ORDER ON C.M.P NO.23574/2000 IN O.P.NO.14593/2000

CLOSED

SD/-THOTTATHIL B.RADHAKRISHNAN, JUDGE

04/06/2007.

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF THE DEATH CERTIFICATE OF THE PETITIONER'S FATHER ISSUED BY THE MEDICAL OFFICER DATED 10/06/1995.

EXT.P2 TRUE COPY OF THE SERVICE PARTICULARS OF THE PETITIONER'S FATHER ISSUED FROM THE AIR FORCE RECORD OFFICE DATED 02/09/1996.

EXT.P3 TRUE COPY OF THE APPLICATION SUBMITTED ON BEHALF OF THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 17/06/1995.

EXT.P4: TRUE COPY OF THE REPLY TO EXT.P3 ISSUED BY THE 2ND RESPONDENT DATED 07/07/2005.

EXT.P5 TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER DATED 19/11/1995.

EXT.P6 TRUE COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT DATED 08/09/1999

EXT.P7 TRUE COPY OF THE LETTER ISSUED BY THE ZILLA SAINIK WELFARE OFFICER, ERNAKULAM, TO THE PETITIONER DATED 16/09/1999

EXT.P8 TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE DEFENCE MINISTER DATED 11/10/1999

EXT.P9 TRUE COPY OF THE REPLY TO EXT.P8, DATED 06/03/2000

EXT.P9(a) A READABLE TYPED COPY OF EXT.P9

EXT.P10 TRUE COPY OF THE LETTER ISSUED FROM THE AIR FORCE, BY AIR MARSHAL S.N.RATHAN, DATED 15/06/1995.

EXT.P11 TRUE COPY OF THE LETTER ISSUED FROM THE AIR FORCE, BY AIR VICE MARSHAL D.C.DHYANI, DATED 12/06/1995.

RESPONENTS' EXTS:

EXT.R1 TRUE COPY OF THE LETTER DO NO.12(72)/VIP/DOI/D(Air-III)/2000/ 2769F/RM DATED 19/05/2000.

\\TRUE COPY//

THOTTATHIL B. RADHAKRISHNAN, J

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O.P.No. 14593 of 2000

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Dated this the 4th day of June, 2007

J U D G M E N T

This original petition is filed by a person in the year 2000, then aged 28 years, challenging Ext.P6 decision, dated 08/09/1999, by which the competent authority has refused his request for compassionate appointment. The competent authority approached the case from the angle of comparable indigency and found that the ameliorative measure of compassionate appointment on account of dying-in-harness does not require to be extended to the petitioner. Though there may be two views possible as to the acceptability of comparable indigency as the criteria for allowing or refusing relief of compassionate appointment as pointed by the learned counsel for the petitioner, as of now, with the passage of time, having regard to the different decisions of the Apex Court that govern the field, it will be too late to order appointment on compassionate grounds. Particular reference in this regard can

be made to **Umesh Kumar Nagpal vs. State of Haryana [1994 (4) SCC 138]**.

For the foregoing reasons, this original petition fails. The same is dismissed. No costs.

THOTTATHIL B.RADHAKRISHNAN,
Judge

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No. 14593 of 2000

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J U D G M E N T

6th June, 2007